
HOUSE BILL No. 1655

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-6.1; IC 16-18-2; IC 16-21-8.

Synopsis: Victims of sex crimes. Removes restrictions for when the victim services division of the criminal justice institute (institute) may reimburse a medical services provider for the costs in providing forensic services. Creates the secured storage fund to assist counties with paying for the secured storage of a sample (sample) from forensic medical examinations of a sex crime victim (victim). Requires a provider to label a sample. Requires a hospital to give notice to a victim of certain rights and to contact law enforcement. Requires law enforcement to transport the sample to secured storage. Requires the sample to remain in secured storage for specified periods of time. Requires the institute to provide notice to victims regarding the sample.

Effective: July 1, 2007.

Dembowski

January 23, 2007, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1655

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-6.1-39, AS AMENDED BY P.L.121-2006,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 39. (a) When a hospital acting under IC 16-21-8
4 provides a forensic medical exam to an alleged sex crime victim, the
5 hospital shall furnish the forensic medical exam described in
6 IC 16-21-8-6 without charge. The victim services division of the
7 Indiana criminal justice institute shall reimburse a hospital for its costs
8 in providing these services and shall adopt rules and procedures to
9 provide for reasonable reimbursement. A hospital may not charge the
10 victim for services required under this chapter, despite delays in
11 reimbursement from the victim services division of the Indiana
12 criminal justice institute.

13 (b) When a hospital acting under IC 16-21-8 provides additional
14 forensic services to an alleged sex crime victim who cooperates with
15 law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c)~~, the
16 hospital shall furnish the additional forensic services without charge.
17 The victim services division of the Indiana criminal justice institute

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1 shall reimburse a hospital for its costs in providing these services and
 2 may adopt rules and procedures to provide for reasonable
 3 reimbursement. A hospital may not charge the victim for services
 4 required under this chapter even if there is a delay in receiving
 5 reimbursement from the victim services division of the Indiana
 6 criminal justice institute.

7 (c) When a hospital acting under IC 16-21-8 provides additional
 8 forensic services to an alleged sex crime victim who does not cooperate
 9 with law enforcement under IC 16-21-8-5(b), ~~or IC 16-21-8-5(c)~~, the
 10 hospital may seek reimbursement directly from the victim or any third
 11 party payer for any additional forensic services rendered by the
 12 hospital.

13 (d) Costs incurred by a hospital or other emergency medical facility
 14 for the examination of the victim of a sex crime (under IC 35-42-4) not
 15 covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the
 16 examination is performed for the purposes of gathering evidence for
 17 possible prosecution, may not be charged to the victim of the crime.
 18 The costs shall be treated as local costs and charged to the appropriate
 19 local governmental agency as follows:

20 (1) If the treatment or services are provided at a county or city
 21 hospital, or hospital district facility, the county shall pay the
 22 expenses.

23 (2) If the treatment or services are provided at a private hospital,
 24 the expenses are paid by the county in whose jurisdiction the
 25 alleged crime was committed.

26 (e) When a licensed medical service provider not covered by
 27 subsection (a) or (b) elects to provide a forensic medical exam to an
 28 alleged victim of one (1) or more of the sex crimes listed in
 29 IC 16-21-8-1(b), the medical service provider shall furnish the exam
 30 without charge. The victim services division of the Indiana criminal
 31 justice institute shall reimburse a medical service provider for costs in
 32 providing forensic medical exams. A medical service provider may not
 33 charge the victim for a forensic medical exam required under this
 34 chapter even if there is a delay in receiving reimbursement from the
 35 victim services division of the Indiana criminal justice institute.

36 (f) When a licensed medical service provider not covered by
 37 subsection (a) or (b) elects to provide additional forensic services to an
 38 alleged sex crime victim who cooperates with law enforcement under
 39 IC 16-21-8-5(b), ~~or IC 16-21-8-5(c)~~, the medical service provider shall
 40 furnish the services without charge. The victim services division of the
 41 Indiana criminal justice institute shall reimburse a medical service
 42 provider for costs in providing the additional forensic services. A

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1 medical service provider may not charge the victim for services
 2 required under this chapter even if there is a delay in receiving
 3 reimbursement from the victim services division of the Indiana
 4 criminal justice institute.

5 (g) When a medical service provider acting under IC 16-21-8
 6 provides additional forensic services to an alleged sex crime victim
 7 who does not cooperate with law enforcement under IC 16-21-8-5(b),
 8 ~~or IC 16-21-8-5(c)~~, the medical service provider may seek
 9 reimbursement directly from the victim or any third party payer for
 10 additional forensic services rendered by the medical service provider.

11 (h) The victim services division of the Indiana criminal justice
 12 institute may reimburse a medical service provider for costs in
 13 providing additional forensic services if the following conditions are
 14 met:

15 (1) If the victim is at least eighteen (18) years of age.

16 (A) ~~the sex crime must be reported to a law enforcement~~
 17 ~~officer within ninety-six (96) hours after the crime occurred;~~
 18 ~~and~~

19 (B) ~~the victim must cooperate to the fullest extent possible~~
 20 ~~with law enforcement personnel to solve the crime.~~

21 (2) If the victim is less than eighteen (18) years of age, a report of
 22 the sex crime must be made to child protective services or a law
 23 enforcement officer. ~~The division may not deny an application for~~
 24 ~~reimbursement under this subdivision solely because the victim~~
 25 ~~reported the sex crime more than ninety-six (96) hours after the~~
 26 ~~crime's occurrence.~~

27 (3) **The sex crime occurred in Indiana.**

28 If the division finds a compelling reason for failure to report to ~~or~~
 29 ~~cooperate with~~ law enforcement officials and justice requires, the
 30 division may suspend the requirements of this section.

31 (i) Costs incurred by a licensed medical service provider for the
 32 examination of the victim of a sex crime (under IC 35-42-4) not
 33 covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be
 34 charged to the victim of the crime if the examination is performed for
 35 the purposes of gathering evidence for possible prosecution. The costs
 36 are local costs to be paid by the county in which the alleged crime was
 37 committed.

38 SECTION 2. IC 5-2-6.1-49 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2007]: **Sec. 49. (a) The secured storage fund is established as a**
 41 **dedicated fund to provide money to assist counties to pay expenses**
 42 **for the secured storage of samples from forensic medical**

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1 examinations of sex crime victims.

2 (b) The division shall administer the secured storage fund.

3 (c) The institute shall identify grants and other funds that can
4 be used to fund the secured storage of samples from forensic
5 medical examinations of sex crime victims.

6 (d) Money in the secured storage fund at the end of a fiscal year
7 does not revert to the state general fund.

8 SECTION 3. IC 16-18-2-97 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 97. "Division" means
10 the following:

11 (1) For purposes of IC 16-21-8, the meaning set forth in
12 ~~IC 16-21-8-0.5~~. **IC 16-21-8-0.1.**

13 (2) For purposes of IC 16-22-8, the meaning set forth in
14 IC 16-22-8-3.

15 (3) For purposes of IC 16-27, a group of individuals under the
16 supervision of the director within the state department assigned
17 the responsibility of implementing IC 16-27.

18 (4) For purposes of IC 16-28, a group of individuals under the
19 supervision of the director within the state department assigned
20 the responsibility of implementing IC 16-28.

21 (5) For purposes of IC 16-41-40, the meaning set forth in
22 IC 16-41-40-1.

23 SECTION 4. IC 16-18-2-295 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 295. (a) "Provider", for
25 purposes of IC 16-21-8, has the meaning set forth in IC ~~16-21-8-0.6~~.
26 **IC 16-21-8-0.5.**

27 (b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for
28 IC 16-39-7) and IC 16-41-1 through IC 16-41-9 and IC 16-41-37,
29 means any of the following:

30 (1) An individual (other than an individual who is an employee or
31 a contractor of a hospital, a facility, or an agency described in
32 subdivision (2) or (3)) who is licensed, registered, or certified as
33 a health care professional, including the following:

34 (A) A physician.

35 (B) A psychotherapist.

36 (C) A dentist.

37 (D) A registered nurse.

38 (E) A licensed practical nurse.

39 (F) An optometrist.

40 (G) A podiatrist.

41 (H) A chiropractor.

42 (I) A physical therapist.

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(J) A psychologist.

(K) An audiologist.

(L) A speech-language pathologist.

(M) A dietitian.

(N) An occupational therapist.

(O) A respiratory therapist.

(P) A pharmacist.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.

(4) A home health agency licensed under IC 16-27-1.

(5) An employer of a certified emergency medical technician, a certified emergency medical technician-basic advanced, a certified emergency medical technician-intermediate, or a certified paramedic.

(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.

(c) "Provider", for purposes of IC 16-39-7-1, has the meaning set forth in IC 16-39-7-1(a).

SECTION 5. IC 16-18-2-365.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 365.5. "Victim", for purposes of IC 16-21-8, has the meaning set forth in ~~IC 16-21-8-0.7.~~ **IC 16-21-8-0.9.**

SECTION 6. IC 16-21-8-0.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).**

SECTION 7. IC 16-21-8-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.3. As used in this chapter, "evidence" means the results collected from a forensic medical exam of a victim by a provider when the victim has reported the sex crime to law enforcement.**

SECTION 8. IC 16-21-8-0.5, AS ADDED BY P.L.90-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.5. As used in this chapter, ~~"division" refers to the victim services division of the Indiana criminal justice institute established by IC 5-2-6-8(a).~~ **"provider" means a hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a victim.**

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SECTION 9. IC 16-21-8-0.6, AS AMENDED BY P.L.121-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.6. As used in this chapter, **"provider" "sample"** means a ~~hospital or licensed medical services provider that provides forensic medical exams and additional forensic services to a~~ **the result collected from a forensic medical exam of the victim by a provider, when the victim has not yet reported the sex crime to law enforcement.**

SECTION 10. IC 16-21-8-0.7, AS ADDED BY P.L.90-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 0.7. As used in this chapter, **"victim" "secured storage"** means ~~an alleged sex crime victim; a method of storing a sample that will adequately safeguard the integrity and viability of the sample.~~

SECTION 11. IC 16-21-8-0.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 0.9. As used in this chapter, "victim" means an alleged sex crime victim.**

SECTION 12. IC 16-21-8-5, AS AMENDED BY P.L.121-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The division shall award compensation or reimbursement under this chapter for forensic medical exams.

(b) The division shall award compensation or reimbursement under this chapter for additional forensic services if the following conditions are met:

(1) If the victim is at least eighteen (18) years of age.

(A) the sex crime must be reported to a law enforcement officer within ninety-six (96) hours after the crime's occurrence; and

(B) the victim must cooperate to the fullest extent possible with law enforcement personnel to solve the crime.

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer. ~~The division may not deny an application for reimbursement under this subdivision based on the victim reporting the sex crime more than ninety-six (96) hours after the crime's occurrence.~~

(3) **The sex crime occurred in Indiana.**

~~(c)~~ If the division finds a compelling reason for failure to report to or cooperate with law enforcement officials and justice requires, the division may suspend the requirements of this section.

~~(d)~~ (c) A claim filed for services provided at a time before the

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provision of the forensic medical exams and additional forensic services for which an application for reimbursement is filed is not covered under this chapter.

SECTION 13. IC 16-21-8-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. A provider shall label or otherwise identify a sample in a manner that protects the confidentiality of the victim.**

SECTION 14. IC 16-21-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9. Prior to the discharge of a victim from the hospital, a provider shall:**

(1) **require the victim to sign a form that notifies the victim of his or her rights under this chapter;**

(2) **provide a copy of the signed form to the victim; and**

(3) **inform law enforcement that the signed form is available.**

SECTION 15. IC 16-21-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10. (a) Law enforcement shall:**

(1) **obtain the sample and the form signed under section 9 of this chapter within forty-eight (48) hours of a provider's notification; and**

(2) **transport the sample to secured storage.**

(b) **Law enforcement shall keep the sample in secured storage until the earlier of the following:**

(1) **One (1) year after the date the sample is placed in secured storage.**

(2) **The victim reports the sex crime to law enforcement and the sample is transported to the crime lab for investigation and use as evidence.**

(c) **The division shall notify the victim, as described in subsection (d), that the victim's sample will be removed from secured storage and destroyed if the victim does not report the sex crime to law enforcement at least ten (10) days before the date described in subsection (b)(1).**

(d) **The notice the division is required to provide a victim under subsection (c) shall be sent:**

(1) **by first class mail to the individual's last known address; and**

(2) **by electronic mail to the individual's electronic mail address.**

(e) **Each county shall develop and implement a plan for the secured storage of samples.**

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